

(k) A supplement to an application that became effective prior to October 10, 1962, may include a written statement to the effect that a temporary deferral of final action under the provisions of paragraph (d), (e), or (g) of this section is unacceptable to the applicant and that the applicant requests action as provided in section 512(c) of the act. Final action on such supplemental applications will be expedited in accord with applicable provisions of section 512 of the act and regulations in this subchapter E. In such cases, if the applicant places into effect any of the proposed changes prior to his receipt of a written notice of approval of the supplemental new animal drug application, such action may be regarded by the Food and Drug Administration as a basis for invoking the provisions of section 512(e)(1)(D) of the act; that is, the applicant may be furnished notice of an opportunity for a hearing on a proposal to withdraw approval of the application on the ground that the application contains an untrue statement of a material fact related to the changes from the conditions approved in the application.

(l) A supplemental application that contains nonclinical laboratory studies shall include, with respect to each nonclinical study, either a statement that the study was conducted in compliance with the requirements set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance.

[40 FR 13825, Mar. 27, 1975, as amended at 50 FR 7517, Feb. 22, 1985; 50 FR 16668, Apr. 26, 1985; 62 FR 40600, July 29, 1997]

§ 514.9 Supplemental applications for animal feeds bearing or containing new animal drugs.

(a) After an application for an animal feed bearing or containing a new animal drug has been approved, a supplemental application may propose changes.

(b) A supplemental application shall be submitted for any change which deviates from the conditions under which the application was originally approved.

(c) Each supplemental application shall be accompanied by a fully com-

pleted Form FDA 1900 in triplicate including an explanation of the changes proposed.

[40 FR 13825, Nov. 27, 1975, as amended at 42 FR 15675, Mar. 22, 1977; 50 FR 16668, Apr. 26, 1985; 51 FR 7391, Mar. 3, 1986]

§ 514.10 Confidentiality of data and information in an investigational new animal drug notice and a new animal drug application file for an antibiotic drug.

(a) The rules established in §§ 514.11 and 514.12 of this chapter with regard to the confidentiality of an investigational new animal drug notice and a new animal drug application file shall apply to such notices and files for antibiotic drugs for new animal drug use.

(b) All records showing the Food and Drug Administration's testing of and action on a particular lot of a certifiable antibiotic drug for veterinary use are immediately available for public disclosure.

§ 514.11 Confidentiality of data and information in a new animal drug application file.

(a) For purposes of this section the *NADA file* includes all data and information submitted with or incorporated by reference in the NADA, INAD's incorporated into the NADA, supplemental NADA's, reports under §§ 510.300 and 510.301 of this chapter, master files, and other related submissions. The availability for public disclosure of any record in the NADA file shall be handled in accordance with the provisions of this section.

(b) The existence of an NADA file will not be disclosed by the Food and Drug Administration before an approval has been published in the FEDERAL REGISTER, unless it has previously been publicly disclosed or acknowledged.

(c) If the existence of an NADA file has not been publicly disclosed or acknowledged, no data or information in the NADA file is available for public disclosure.

(d) If the existence of an NADA file has been publicly disclosed or acknowledged before an approval has been published in the FEDERAL REGISTER, no data or information contained in the file is available for public disclosure

before such approval is published, but the Commissioner may, in his discretion, disclose a summary of such selected portions of the safety and effectiveness data as are appropriate for public consideration of a specific pending issue, e.g., at an open session of a Food and Drug Administration advisory committee or pursuant to an exchange of important regulatory information with a foreign government.

(e) After an approval has been published in the FEDERAL REGISTER, the following data and information in the NADA file are immediately available for public disclosure unless extraordinary circumstances are shown:

(1) All safety and effectiveness data and information previously disclosed to the public, as defined in § 20.81 of this chapter.

(2) A summary or summaries of the safety and effectiveness data and information submitted with or incorporated by reference in the NADA file. Such summaries do not constitute the full reports of investigations under section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) on which the safety or effectiveness of the drug may be approved. Such summaries shall consist of the following:

(i) For an NADA approved prior to July 1, 1975, internal agency records that describe such data and information, e.g., a summary of basis for approval or internal reviews of the data and information, after deletion of:

(a) Names and any information that would identify the investigators.

(b) Any inappropriate gratuitous comments unnecessary to an objective analysis of the data and information.

(ii) For an NADA approved on or after July 1, 1975, a summary of such data and information prepared in one of the following two alternative ways shall be publicly released when the approval is published in the FEDERAL REGISTER.

(a) The Center for Veterinary Medicine may at an appropriate time prior to approval of the NADA require the applicant to prepare a summary of such data and information, which will be reviewed and, where appropriate, revised by the Center.

(b) The Center for Veterinary Medicine may prepare its own summary of such data and information.

(3) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 20.61 of this chapter.

(4) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician, hospital, or other institution.

(5) A list of all active ingredients and any inactive ingredients previously disclosed to the public as defined in § 20.81 of this chapter.

(6) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 20.61 of this chapter.

(7) All correspondence and written summaries of oral discussions relating to the NADA, in accordance with the provisions of part 20 of this chapter.

(f) All safety and effectiveness data and information not previously disclosed to the public are available for public disclosure at the time any one of the following events occurs unless extraordinary circumstances are known:

(1) The NADA has been abandoned and no further work is being undertaken with respect to it.

(2) A final determination is made that the NADA is not approvable, and all legal appeals have been exhausted.

(3) Approval of the NADA is withdrawn, and all legal appeals have been exhausted.

(4) A final determination has been made that the animal drug is not a new animal drug.

(5) A final determination has been made that the animal drug may be marketed without submission of such safety and/or effectiveness data and information.

(g) The following data and information in an NADA file are not available for public disclosure unless they have been previously disclosed to the public as defined in § 20.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no

longer represent a trade secret or confidential commercial or financial information as defined in § 20.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(h) For purposes of this regulation, safety and effectiveness data include all studies and tests of an animal drug on animals and all studies and tests on the animal drug for identity, stability, purity, potency, and bioavailability.

[40 FR 13825, Mar. 27, 1975, as amended at 42 FR 3109, Jan. 14, 1977; 42 FR 15675, Mar. 22, 1977; 54 FR 18280, Apr. 28, 1989]

§ 514.12 Confidentiality of data and information in an investigational new animal drug notice.

(a) The existence of an INAD notice will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in an INAD file shall be handled in accordance with provisions established in § 514.11.

§ 514.15 Untrue statements in applications.

Among the reasons why an application for a new animal drug or animal feed bearing or containing a new animal drug may contain an untrue statement of a material fact are:

(a) Differences in:

(1) Conditions of use prescribed, recommended, or suggested by the applicant for the product from the conditions of such use stated in the application;

(2) Articles used as components of the product from those listed in the application;

(3) Composition of the product from that stated in the application;

(4) Methods used in or the facilities and controls used for the manufacture, processing, or packing of the product from such methods, facilities, and controls described in the application;

(5) Labeling from the specimens contained in the application; or

(b) The unexplained omission in whole or in part from an application or from an amendment or supplement to an application or from any record or report required under the provisions of section 512 of the act and § 510.300 or § 510.301 of this chapter of any information obtained from:

(1) Investigations as to the safety, effectiveness, identity, strength, quality, or purity of the drug, made by the applicant on the drug, or

(2) Investigations or experience with the product that is the subject of the application, or any related product, available to the applicant from any source if such information is pertinent to an evaluation of the safety, effectiveness, identity, strength, quality, or purity of the drug, when such omission would bias an evaluation of the safety or effectiveness of the product.

(c) Any nonclinical laboratory study contained in the application was not conducted in compliance with the good laboratory practice regulations as set forth in part 58 of this chapter, and the application fails to include a brief statement of the reason for the non-compliance.

[40 FR 13825, Mar. 27, 1975, as amended at 49 FR 7226, Feb. 28, 1984; 50 FR 7517, Feb. 22, 1985]

Subpart B—Administrative Actions on Applications

§ 514.100 Evaluation and comment on applications.

(a) After the filed application has been evaluated, the applicant will be furnished written comment on any apparent deficiencies in the application.

(b) When the description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug appears adequate on its face, but it is not feasible to reach a conclusion as to the safety and effectiveness of the